

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ROGER GODWIN,

Plaintiff,

v.

ORDER

11-cv-715-wmc

UNITED STATES MARSHALS FOR THE
WESTERN DISTRICT AND SUPERVISORS,
WISCONSIN SECRET SERVICE AND
SUPERVISORS, CHICAGO, ILLINOIS
DEA HEADQUARTERS EMPLOYEES AND
SUPERVISORS, FEDERAL BUREAU OF
INVESTIGATION FOR WESTERN DISTRICT
OF WISCONSIN SUPERVISORS, CAPTAIN
MICHAEL SCHARPF, SGT. RICHARDS,
MARK OLSON, RANDALL HEPP,
CAPTAIN JANSON, LT. HAGBURG,
GARY HAMILLION, WESTERN DISTRICT
OF WISCONSIN ATTORNEY'S OFFICE,
BARBARA B. CRABB, STEPHEN CROCKER,
EASTERN DISTRICT U.S. ATTORNEY'S
OFFICE EMPLOYEES, F.B.I. HEADQUARTERS
AND EMPLOYEES and PRESIDENT OBAMA,

Defendants.

Plaintiff Roger Dale Godwin, a prisoner at the Waupun Correctional Institution, has filed this action against numerous state and federal officials, alleging that defendants (including me) have threatened him and assaulted him in conjunction with death threats he made about various public officials (also including me).

Plaintiff has filed a motion for my recusal as well as Judge Barbara Crabb's recusal. Dkt. 10. Judge Crabb has already recused herself in a January 11, 2012 order. Dkt. 15. 28 U.S.C. §§ 144 and 455 apply to motions for recusal and disqualification of judges. Section 144 requires a federal judge to recuse herself for "personal bias or prejudice." Section 455(a) requires a federal judge to "disqualify himself in any proceeding in which his impartiality might reasonably

be questioned,” and section 455(b)(1) provides that a judge shall disqualify herself if she “has a personal bias or prejudice concerning a party.” Because the phrase “personal bias or prejudice” found in § 144 mirrors the language of § 455(b), they may be considered together. *Brokaw v. Mercer County*, 235 F.3d 1000, 1025 (7th Cir. 2000). In deciding whether a judge must disqualify himself under 28 U.S.C. § 455(b)(1), the question is whether a reasonable person would be convinced the judge was biased. *Hook v. McDade*, 89 F.3d 350, 355 (7th Cir. 1996) (internal quotation omitted). Recusal under § 455(b)(1) “is required only if actual bias or prejudice is proved by compelling evidence.” *Id.* (citation and quotation omitted).

Plaintiff argues that I must recuse myself both because I am a defendant in the case (plaintiff alleges that I “fabricat[ed] documents to cover up [law enforcement officials’] lying under oath”) and because he has threatened to kill me. As Judge Crabb noted in her January 11, 2012 order, neither of these reasons is automatically grounds for recusal. *In re Specht*, 622 F.3d 697, 700 (7th Cir. 2010) (courts are not forced to succumb to “easy manipulation” of recusal rules by mandating that judge step aside when plaintiff names judge as defendant); *In re Nettles*, 394 F.3d 1001, 1002 (7th Cir. 2005) (judge not required to recuse herself if threat appears to be motivated solely by a desire for recusal).

However, Judge Crabb also noted a significant difference between the present case and the cases discussed above:

[T]he substance of plaintiff's claims themselves concerns defendants' responses to hearing about the death threats made to me and other public officials. This would place me in the awkward position of presiding over a case directly connected to the threats against me.

Dkt. 15 at 3. This conflict caused Judge Crabb to recuse herself from this case. I will follow her lead and do the same.

ORDER

It is ORDERED that plaintiff Roger Godwin's motion for my recusal in this case, dkt. #10, is GRANTED. I am disqualifying myself pursuant to 28 U.S.C. § 455.

Entered this 17th day of August, 2012.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge